IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1260 OF 2003

M.K.Daulatjada & Ors. ..Petitioners
Vs.
State Bank of India ..Respondent

Mr.M.P.Vashi for Petitioner
Mr.Nishit M. Dhruva i/b. M. Dhruva & Co. for Respondents

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 5TH APRIL, 2005.

P.C.

1. The case of the Petitioners is that though they were entitled to be promoted as Special Assistants before their retirement they were not so promoted and consequently their pensionary benefits have been effected. It is their case that in so far as Delhi is concerned persons similar like them were given benefits and as such the Respondents cannot act arbitrarily or discriminate against the present Petitioners. In the rejoinder filed on 15th April, 2004 in paragraph six it is also set out that some employees in Mumbai were given the benefits. It is on this basis the reliefs have been sought for.

2. On pointed query to the Counsel for the Petitioners, as to whether there was any settlement or scheme in the matter of grant of such promotion learned Counsel fairly conceded that there is no such policy in writing. It is however, submitted

that there is a practice and based on this practice as has happened in Delhi they will be entitled to the promotional posts of special assistant.

3. On behalf of the Respondents the learned Counsel points out that all the Petitioners though earlier were offered promotion as special assistants they declined to accept the said promotional posts. In so far as giving a promotion to persons in Delhi, in the affidavit of Manubhai K. Gohil, dated 9th December, 2003 it is specifically set out that the procedure followed by Delhi circle was in contravention to the guide-lines issued by Corporate centre of the Respondents in as much as no allowance can be paid without performing the related duties and responsibilities. The stand therefore, of the Respondents is that there is no such policy or guide lines in which the employee before retirement is entitled to be promoted. It is the contention that if a wrong has been done by Delhi Office that cannot confer a legal right on the petitioners herein. A writ Court would issue no mandamus to perpetuate a wrong.

. We are in agreement with the propositions convened on behalf of the Respondents. In order to get a benefit it must be based either on the settlement, a policy decision or instructions issued

by the Respondents. In the instant case there are none. Apart from that existence of policy by way of practice has also not been established. In these circumstances relief as prayed for cannot be granted.

4. In the rejoinder it is also set out that some employees in Bombay were given the benefits. Nothing has been pointed out as to what was the rank of the Officers, the posts they were holding, the dates on which they were given increments and other particulars which would be required. Even otherwise considering that we have rejected the first contention, it will not be possible to grant the relief as prayed for.

5. In the light o that no interference is called for. No order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)